OIPE IAP92 AUG 03 2006 PATENT & TRADEMARK OFFICE

PATENT
EMC-97-153CON1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT:	Douglas LeCrone, et al	*GROUP ART UNIT:*	2114
U.S.S.N.:	10/642,912	*CONFIRMATION NO.:*	3185
FILING DATE:	August 18, 2003	*EXAMINER:*	Chu, Gabriel L.
		CUSTOMER NO.	**24227**
TITLE:	*HOST SYSTEM FOR MASS STORAGE BUSINESS CONTINUANCE VOLUMES*		

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)

The undersigned hereby certifies that this document is being placed in the United States mail with first-class postage attached, addressed to: Mail Stop: Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on August 1, 2006.

Timothy J. Rousseau

Timothy J. Rousseau

Mail Stop: Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION UNDER 37 CFR 1.131

Sir:

Douglas E. LeCrone and Bruce A. Pocock declare:

1. That they are the co-inventors who on March 13, 1998 filed the above-reference U.S. Patent Application No. 10/642,912 entitled "Host System for Mass Storage Business Continuance Volumes" (the "Application").

2. That they conceived their invention in this country long prior to June 13, 1997, the filing date of U.S. Patent No. 6,216,211 entitled "Method and Apparatus for Accessing Logical Volumes" (the "McBrearty patent").

3. That at least as early as May 20, 1996, they began developing source code implementing the invention, as evidenced by the development history maintained in EMC Corporation's Interactive System Productivity Facility ("ISPF") directory listing, a screenshot of which is attached as Exhibit A. ISPF is a software library management tool for versioning, auditing, and promoting source code. It is maintained by EMC as an ordinary business record to provide developers with an interface to create software applications.

4. That Douglas E. LeCrone worked substantially continuously on the development of this source code, in original and subsequent versions, from May 20, 1996 through the filing date of the Application on March 13, 1998, spending at least 20 manhours per week.

5. That Bruce A. Pocock worked substantially continuously on the development of this source code from his start date at EMC in August, 1997 through the filing date of the Application on March 13, 1998, spending at least 20 manhours per week.

6. That they do not know and do not believe that their invention has been in public use more than one year before the date of their application; and that they have never abandoned the invention.

7. That all statements made herein of their own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Respectfully submitted,

8/1/06
Date

Douglas E. LeCrone

Date

Bruce A. Pocock

EXHIBIT A

Screenshot of Development History Maintained in EMC Corporation's ISPF Directory Listing

```
*********************************************************************
*                                                                   *
* MOD   :  SMMF                                                     *
* DESC  :  CODE TO DEBUG SYMMETRIX MULTI MIRROR FACILITY            *
*                                                                   *
* PARMS:   H: TOTAL LEN OF PARMS                                    *
*          C: 1 TO 4 CHAR CUU OF PRIMARY DEVICE                     *
*             OR 6 CHAR VOLSER OF PRIMARY DEVICE                    *
*          C: ,                                                     *
*          C: 1 TO 4 CHAR CUU OF SECONDARY(BACKUP) DEVICE           *
*             OR 6 CHAR VOLSER OF SECONDARY(BACKUP) DEVICE          *
*          C: ,                                                     *
*          C: 1 CHAR ACTION CODE (Q/S/E/R/N/X/V)                    *
*          C: ,                                                     *
*          C: 1 CHAR WAIT OPTION (Y/N)                              *
*          C: ,                                                     *
*          C: 1 CHAR MESSAGE OPTION (Y/N)                           *
*          C: ,                                                     *
*          C: 1 CHAR FORCE OPTION (Y/N)                             *
*          C: ,                                                     *
*          C: 2 CHAR HEX VALUE FOR THE SPLIT FLAG                   *
*                                                                   *
*                                                                   *
* REGS  :  R15-R14   WORK                                           *
*          R10       BASE EMCIOB                                    *
*                                                                   *
*          C: 2 CHAR HEX VALUE FOR THE SPLIT FLAG                   *
*                                                                   *
*                                                                   *
* REGS  :  R15-R14   WORK                                           *
*          R10       BASE EMCIOB                                    *
*                                                                   *
*                                                                   *
*********                                                          *
* HISTORY:                                                          *
* __DATE__  WHO  _____________________CHANGE_DESCRIPTION_____________ *
* 04/15/96  DEL  BASE CODE                                          *
* 05/02/96  DEL  ADD THE X (RESTORE) OPTION                         *
* 05/22/96  DEL  ADD THE V (VERIFY) OPTION                          *
* 06/07/96  DEL  WHEN WAITING FOR THE ITRKS, EVERY 10 PASSES CALL THE *
*                VERIFY ROUTINE                                     *
* 08/07/96  DEL  CHANGE NAMES AROUND                                *
* 09/03/96  DEL  CHANGES TO THE QUERY OUTPUT, AND RESTORE OPTION Y  *
* 09/19/96  DEL  USE DOIO                                           *
* 10/17/96  DEL  ON A RESTORE IF I GET A REJECT CODE OF X'18' THEN  *
*                THERE ARE WRITE PENDINGS ON THE TARGET DEVICE SO   *
*                RETRY IN 5 SECONDS                                 *
* 10/19/96  DEL  ADD ROUTCDE=11 TO SOME OF THE WTO'S                *
* 10/30/96  DEL  ADD MSGCNSL OPTION                                 *
* 11/19/96  DEL  CHANGE DOIO TO DOIOF AND NOT ALLOW ERP, I WILL DO  *
*                RE-TRYS MYSELF. ERP WAS PUTTING A 03 AFTER THE 27/3E *
*                WHICH WAS CAUSING 0333 (EQU CHECKS) ON THE BCV     *
*                WHILE IT WAS ESTABLISHED.                          *
* 02/27/97  PTN  CHANGED CODE TO ACCEPT VOLSER NUMBERS FROM JCL     *
*                PARM INSTEAD OF REG CUU AND BCV CUU.               *
*                JCL PARM='&V2,&V,....'.  V2 IS FOR REGUALR;        *
*                V, BCV.                                            *
```

```
* 03/07/97  PTN  CHANGED CODE TO ACCEPT EITHER CUU OR VOLSER          *
*                NUMBER FROM JCL PARM.  IF THE LEN OF V2 (REG)        *
*                PARAMETER IS LESS THAN 6 THEN PROCESS AS CUU;        *
*                LIKEWISE FOR &V (BCV).                               *
* 03/12/97  DEL  FIX PTN CHANGES, ADD IODEV PARAMETER                 *
* 03/13/97  DEL  ACCEPT RC OF 10H ON EST/RE-EST                       *
* 06/21/97  DEL  RETRY SPLIT ON RC11                                  *
* 12/24/97  DAM  ADD DISPLAY OF RC ON FAILURE                         *
* 01/08/98  DEL  WAIT 1 SECOND AT END TO STOP MC PROBLEM OF COMING    *
*                TO QUICK AFTER ACTIONS IN THE SMMF* TESTS            *
* 01/16/98  DEL  ADD DIFFERENTIAL SPLIT OPTION (T)                    *
* 03/05/98  DAM  ADD DUMP OPTION TO ABEND 999                         *
*                SAVE R0 ON RETURN FROM DOIOF - SAVED IOBRC           *
*                LOAD IT INTO R3 BEFORE ABEND                         *
* 03/18/98  DAM  ADD AMODE 31 - CRASHED W/ 31-BIT UCBS                *
* 06/05/98  DEL  ADD SECOND DISPLAY FLAG                              *
* 06/19/98  DAM  DISPLAY OUTPUT + DEV DATA IF BCV IN USE              *
* 09/02/98  DAM  CHECK FOR 1735 AND SET RC=4                          *
* 10/21/98  DAM  MADE DATA3E BUFFER BIGGER FOR FIND_BKUPDEV_ENTRY     *
*                ADJUSTED CP FOR LARGER BUFFER                        *
* 10/27/98  DEL  CHECK FOR FILE-SMMF/HELD BCV IF TRUE ABEND           *
* 10/28/98  DAM  CHECK SYMM SER# ON BCV QUERY                         *
* 03/19/99  DEL  CHANGE DOIOF TO DOIO                                 *
* 04/05/99  DEL  ON SPLIT CHECK IF FILE LEVEL SESSION FLAG IS ON      *
* 04/06/99  DAM  RESETTRC  IF FILE LEVEL SESSION FLAG IS ON           *
* 05/17/99  DEL  RESETTRC DO NOT CHECK IF THE #STCPARM RSTTRC WAS DONE*
* 05/24/99  DAM  FILE LEVEL FLAG                                      *
*                CALL RESETCHP ON SPLIT, RE-EST, RESTORE              *
* 05/26/99  DEL  DO NOT CHECK #STCPARM                                *
* 06/02/99  DAM  FINAL TIME - REMOVE CALL TO RESETCHP                 *
*                CREATED SMMFMAUI VERSION THAT CALLS RESETCHP         *
* 06/18/99  DEL  IF FILE LEVEL BIT ON MUST EXIT WITH RC8              *
* 01/19/00  DAM  RETRY ESTABLISH AND RESTORE ON X'31' ERRORS          *
*                OPTIMIZER CLASH "UPGRADE IN PROGRESS"                *
* 03/27/00  EDP  RETRY UP TO 15 MINUTES FOR RC X'70' ON A RESTORE.    *
* 07/06/00  DAM  BAP-MACRO-IZE THIS SUCKER - SOMEBODY HAD TO DO IT    *
* 07/06/00  DAM  PUT IN CHECKS TO SEE IF OPTIMIZER HAS ATTACHED A DRV *
*                DEV TO THE STD. RETURN RC=4 IF SO.                   *
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Respectfully submitted,

Date	Douglas E. LeCrone
July 28, 2006	Bruce A Pocock
Date	Bruce A. Pocock

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